

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
William D. Griffith

Serial No.: 10/730,363

Filed: December 8, 2003

For: PLANTS AND SEEDS OF CORN
VARIETY LH324

Group Art Unit: 1638

Examiner: McElwain, E.

Atty. Dkt. No.: HFSC:016US

CERTIFICATE OF ELECTRONIC SUBMISSION

Date of Submission: October 16, 2006

RESPONSE TO 37 C.F.R. §1.105 REQUEST

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is submitted in response to the 37 C.F.R. §1.105 Request dated June 14, 2006, for which the deadline to respond is October 16, 2006 in view of the enclosed Petition for extension of time and fees. No additional fees are believed due in connection with this paper. However, should any such fees become due, consider this paragraph a request and authorization to withdraw the appropriate fee under 37 C.F.R. §§ 1.16 to 1.21 from *Fulbright & Jaworski, L.L.P.* Account No. 50-1212/HFSC:016US.

REMARKS

The following information and remarks are provided responsive to the requests made in paragraph 3 of the 37 C.F.R. §1.105 Communication as known and readily obtained by Applicants pursuant to this section:

(i) The original parents from which corn variety LH324 was developed are designated LH172 and LH283. Variety LH283 also has the designation PS20529. Lines LH172 and LH283 are believed to have been on sale or in public use as of the filing date and thus “publicly available” as that term is used in the Request. Applicants understand this term to refer to whether the parent plants had been on sale or in public use as of the priority date of the current application. Clarification is respectfully requested if this interpretation is not what was intended.

(ii) Corn variety LH324 was developed from the single cross of LH172 x LH283 by selfing and using the pedigree system of plant breeding. Yield, stalk quality, root quality, disease tolerance, late plant greenness, late plant intactness, ear retention, pollen shedding ability, silking ability and corn borer tolerance were the criteria used to determine the rows from which ears were selected during the development of LH324.

(iii) LH172 and LH283 the progenitors of LH324, are both proprietary field corn inbred lines of Holden's Foundation Seeds, L.L.C., of Williamsburg, Iowa. In August 1992, Holden's applied for plant variety protection of LH172. On August 31, 1993 LH172 was awarded certificate #9200249. U.S. Patent No. 5,276,266 issued on January 4, 1994 also protects LH172. In January 1997, Holden's applied for plant variety protection of LH283. On May 29, 1998 LH283 was awarded certificate #970078. U.S. Patent No. 5,773,683 issued by the United States Patent Office on June 30, 1998 also protects LH283. The extent of disclosure of progeny is provided under item (iv).

(iv) At or before the time of filing of the instant application there is believed to have been one other corn line produced using said method and said parental corn lines; which is designated GAMI220. This corn line was not publicly available or sold at the time of filing of the instant application.

CONCLUSION

This is submitted to be a complete response to the referenced Communication. In conclusion, Applicant submits that the present case is in condition for allowance and such favorable action is respectfully requested.

The Examiner is invited to contact the undersigned at (512) 536-3085 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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